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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,953	08/07/2001	Herman Burema	448172000100	9497
25227	7590	09/15/2005	EXAMINER	
MORRISON & FOERSTER LLP			ALLEN, WILLIAM J	
1650 TYSONS BOULEVARD				
SUITE 300			ART UNIT	PAPER NUMBER
MCLEAN, VA 22102			3625	

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/922,953	BUREMA ET AL.
	Examiner William J. Allen	Art Unit 3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08/07/2001.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-13 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 07 August 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/01/2002</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: Page 16, line 15 states having “an” tracking system and should read having “a” tracking system.

Appropriate correction is required.

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is drawn to a method for a third party to track transactions over a network. In lines 4 and 5, the limitation is set forth in an ambiguous manner. It is not discernable to the Examiner which, out of the program or client information, is used to redirect the client to the merchant. In accordance with the existing claims, the Office will interpret the program to be used to redirect the client to the merchant site.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-6, 8-10, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Helbig (US 20020116257 A1).

Helbig discloses a system and method for issuing incentives to users of an online incentive system. Users are registered with the system and permitted to navigate throughout a multiplicity of sites using links, pop-up advertisements, and banner ads as directional tools. By browsing through the system, users can accumulate incentive points by clicking designated icons or by purchasing goods/services from various vendors. Usage data and tracking information are stored in a central database and used to ensure valid accumulation and redemption of incentive points for users.

Pertaining to claim 1:

- Comparing client information and transaction information to determine whether a valid transaction occurred, the transaction information gathered using a script executed by the client browser. Users of the service are registered members of the service. The registration of all users ensures valid accumulation and

redemption of incentive points and provides a record of the transactions. A transaction may include the issuance of incentive points by an issuer, or "merchant", site (see at least: [0075] and [0079]). Incentives can also be physically shipped to issuers or printed at an issuer's site to be distributed by the issuer to users. Users who receive the printed incentive may then manually record the incentive (by accessing server administrator node) into their incentive account via the Internet or a similar network. A record contains a User ID to provide user identification and information concerning both the user and the transaction (issuance date, time indicator). When a user records their awarded incentive into their account, they do so by entering the incentive serial number into their incentive account. Built in security measures (such as the number of digits used in each serial number) help to avoid the entrance of a non-valid serial number, thereby helping to ensure that each transaction is valid. The serial numbers further provide a means to judge authenticity before an incentive is accepted and credited to a user (see at least: [0063] to [0064]; FIG. 1, 2, 8 and 9).

- Monitoring the comparison to record when a valid transaction occurs. A record of the transaction contains a User ID to provide user identification and information concerning both the user and the transaction (issuance date, time indicator) (see at least: [0063]).

Pertaining to claim 2 and 3:

- Redirecting a client to a merchant site based on a banner ad selected on an affiliate site. Once at a “program site” (i.e. affiliate site) a user can click on a banner ad and be directed to a “topic site” (i.e. merchant site) mentioned in the banner ad (see at least: [0010] and [0005]).
- Storing prior to redirecting the client, the client information in a data storage device. As shown, various nodes are coupled to an incentive administration server and an incentive issuer server. The administration server may be a single general-purpose computer or an interconnected collection of general-purpose digital computers, appearing to users as an incentive program website. The administration server contains records of electronic incentives, records of printed incentives, and a member database which tracks individual incentive users registered with the administration server (see at least: [042]). A user node may include a membership symbol, whereby an individual who is not yet a member of the incentive program (and thus not yet an incentive user) may click on the membership symbol and be connected to the electronic incentive system. A user is not a user of the incentive system until they register to become a member, thus, the user or “client” information must be stored prior to redirection in the member database (see at least: [0046]).
- Capturing the transaction information about a transaction made by the client on the merchant site. Once at an issuer or merchant site, the user can click on various symbols/links or purchase goods/services to acquire incentive

points from that particular merchant. Activation of the symbol or link initiates a software program identifying both the user and the issuer/merchant, that information is captured and then used to credit/debit incentive points accordingly (see at least: [0081]).

- Determining whether a data is available from a cookie stored on the client, wherein the determination is made by writing out the cookie to the client. The process checks to see whether incentive user information is available. In the preferred embodiment, this is a check to see whether a user cookie has been procured from the user's browser. In a typical browser, any visited website may store information on the user's browser to be employed subsequently for purposes of bringing up pertinent information. This is referred to as a cookie. If a cookie is not available the service prompts the user for registration information (see at least: [0106]).

Pertaining to claim 4 and 5:

- Redirecting a client to a merchant site based on a selection made at an affiliate site by the client and storing information about the redirection in a database. Once a user is at an incentive site, he/she is permitted to click on a banner ad. Once a banner ad has been selected, the user is redirected to a merchant site. The user is also awarded incentive points based on the selection of the banner ad. Those points are stored in a user account managed by a member database as shown above, thereby storing

information about the redirection through the assignment of incentive points (see at least: [0010]).

- Capturing, using a script executed by the client browser, that a client completed a transaction at the merchant site. Once at an issuer or merchant site, the user can click on various symbols/links or purchase goods/services to acquire incentive points from that particular merchant. Activation of the symbol or link initiates a software program identifying both the user and the issuer/merchant, that information is captured and then used to credit/debit incentive points accordingly (see at least: [0081]).
- Receiving the transaction information indicating that the client completed a transaction at the merchant site. Once incentives have been issued from an issuer site, the issuer is notified of the successful award and the transaction is recorded (see at least: [0081]).
- Comparing the information stored in the browser of the client with the transaction information to determine whether the affiliates referred the client to the merchant. A membership symbol may be present on any number of potential user sites (i.e. affiliate sites) providing a user the opportunity to become a member of the incentive service. As an award for the referral, the referring site may accrue incentive points as well. In order to do so, information from the potential new member must be used in conjunction with information from the affiliate referring the potential new member to assess which referring site should be allocated incentive points (see at least: [0046]).

- Notifying the affiliate and the merchant that a valid transaction has occurred.

Once incentives have been issued from an issuer site, the issuer is notified of the successful award and the transaction is recorded (see at least: [0081]).

Additionally, an affiliate site that refers a potential new member receives incentives as well once the potential new member selects the membership symbol, thereby affecting a transaction (see at least: [0046]).

Pertaining to claim 6:

- A browser-based transaction tracking program that records information about a transaction that occurs on a merchant site. The electronic administration server node includes a user browser (see at least: [022]; FIG. 2). As noted above, the system is capable of recording information about a transaction on a merchant site (see at least: [0081]).
- Tracking server or compare the information about the transaction data stored during redirection of a client to the merchant site. Information is stored about a redirection to a merchant site, as noted above (see at least: [0042]). An administration server is responsible for tracking and storing information on members, issuers, transactions, etc. (see at least: [0042]).

Pertaining to claim 8:

The language and limitations of claim 8 closely parallel those of claims 1-7 and are thereby analyzed and rejected on the same merits.

Pertaining to claim 9:

Helbig further discloses a system with multiple parties involved in the redirection and tracking of users, tracking and completion of transactions (such as issuing incentive points), and the overall monitoring of the system. An administrative system acts as a third party, overseeing transactions between users, merchant sites, and affiliate sites.

The administration server

- Receiving from an affiliate site a link to that relates to a merchant site and was selected by the client and Redirecting the client to the merchant site according to the link. A banner ad is provided as a link that a user may select and be redirected to a merchant site (see at least: [0010]).
- Storing client information, using a program executed by a browser on the client, about the merchant site and the client site, which is used to redirect the client to the merchant site. Users are registered users of the incentive system and are permitted to become users through an electronic registration (i.e. program or script) process with user information is stored in a user database. The program is used to redirect the user to merchant sites. (see at least: [0010]; [0075]; and [0079]).
- Receiving an indication that a transaction has been completed at the merchant site and recording transaction as transaction information Once at an issuer or merchant site, the user can click on various symbols/links or purchase goods/services to acquire incentive points from that particular

merchant. Activation of the symbol or link initiates a software program identifying both the user and the issuer/merchant, that information is captured and then used to credit/debit incentive points accordingly, indicating that a transaction has occurred (see at least: [0081]).

- Determining whether the affiliate referred the client to the merchant site by comparing transaction information with the client information. A membership symbol may be present on any number of potential user sites (i.e. affiliate sites) providing a user the opportunity to become a member of the incentive service. As an award for the referral, the referring site may accrue incentive points as well. In order to do so, information from the potential new member must be used in conjunction with information from the affiliate referring the potential new member to assess which referring site should be allocated incentive points (see at least: [0046]).

Pertaining to claim 10:

- Transaction information is recorded using a script executed by the browser on the client. The Internet information servers will execute the Active Server Pages (ASP) and HTML coded pages that support the system. Active Server Pages is a scripting language available from Microsoft that allows developers to program website interactions that run under IIS (Internet Information Servers), which, in turn, run under Microsoft NT (New Technology) operating system servers. ASP allows developers to create dynamic web pages as opposed to static pages that

written in HTML. The ASP code dynamically generates HTML pages that are unique to each interaction with a user who is operating a browser.

Pertaining to claim 12

- The storing is performed before the merchant site receives the information.
Information is stored about a user in the database prior to a merchant site receiving the information to perform incentive acquiring transactions, as noted above (see at least: [0042]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Helbig (US 2002/0116257 A1) in view of Bezos et al. (US 6,029,141, herein referred to as Bezos, cited in IDS).**

Helbig teaches all of the above as noted in the rejection of claims 1-6, 8-10, and 12 and further teaches:

- An affiliate server that includes at least one link to a merchant site and a redirection program that redirects the client to the merchant site. The user is provided a “program” or affiliate site. Once at an affiliate site a user can click

on a banner ad and be directed to a "topic site" (i.e. merchant site) mentioned in the banner ad (see at least: [0010] and [0005]).

The Office interprets the term server as defined by

www.firstclasssolutions.net/glossary.php as a computer, or a software package, that provides a specific kind of service to client software running on other computers. The term can refer to a particular piece of software, such as a WWW server, or to the machine on which the software is running. In this instance, the page would allow a client running compatible software at a remote location to access additional resources such as a multiplicity of vendors on the network/Internet.

- A merchant server including a cookie creation and verification code which writes a cookie to the client. The process checks to see whether incentive user information is available. In the preferred embodiment, this is a check to see whether a user cookie has been procured from the user's browser. In a typical browser, any visited website may store information on the user's browser to be employed subsequently for purposes of bringing up pertinent information. This is referred to as a cookie. If a cookie is not available the service prompts the user for registration information (see at least: [0106]).

Helbig, however, does not fully teach sending transaction information to the tracking server when cookies have been disabled. Bezos discloses a web-based referral system enabling business entities to market and sell products to consumers. Upon customer selection of a referral link, the computer system utilizes customer cookie information to transmit and receive transaction information. The system, though, is still operable when

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a user has disabled the cookie feature of a browser. If the user has not authorized the use of cookies, the program uses URL information received from the Web browser to generate customer identification. The customer information is in turn used to identify transactions associated with the customer (see at least: col. 13, lines 42-67). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Helbig to include sending transaction information to the tracking server when cookies have been disabled as taught by Bezos in order to allow a user of the system to conveniently complete transactions by having information stored in the system without having to repeatedly enable and disable cookies for that particular use.

The Examiner further notes that, with many browsers, cookies are often disabled or the browser is set at a high security to avoid unwanted dissemination of sensitive information. A user is permitted to set the level of security as well as sites to accept cookies from. A user desiring the omission of cookies will be less likely to use the present system if cookie use is required. Therefore, providing an alternative means to transfer and store transaction information will thereby increase the number of users of the system.

3. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Helbig (US 2002/0116257 A1) in view of "Cookies: Feeding session information from Web servers to clients, and back" extracted from Proquest on September 13, 2005 and herein referred to as "Feeding Session".

Pertaining to claim 11:

Helbig teaches all of the above as noted in the rejection of claims 1-6, 8-10, and 12 and further teaches the assignment and storage of cookies to a user to maintain user and merchant information (see at least: [0057] and [0106]). Helbig, however, does not explicitly state that the storing of the information takes place transparent to the user. Feeding Session discloses the ability of a browser developed by Netscape to make the process of storing and retrieving information such as a cookie transparent to the user. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Helbig to include a means of storing information transparent to the user as taught by Feeding Session in order to reduce unwanted idempotent transactions where only a temporary “relationship” can be established with a user of web browser. This further allows a web service to track user information without interfering with user operation, creating a more user-friendly service and thereby increasing use of the service.

Pertaining to claim 13:

Helbig teaches all of the above as noted in the rejection of claims 1-6, 8-10, and 12 and further teaches the assignment and storage of information to track a user . The information is also used in conjunction with other information to determine the source of a referral (see at least: [0057]; [0046]; and [0106]). Helbig, however, does not disclose determining whether an affiliate referred a user without the use of cookies. Feeding Session discloses the ability of a system to track user sessions using “hidden field”

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features of HTML forms or custom, back-end token management systems. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Helbig to include the ability to determine whether an affiliate referred a user without the use of cookies as taught by Feeding Session in order to allow affiliates of the system to receive incentives based on the referral of potential users when a user of a system is unable to accept cookies. By further ensuring incentives to be provided to affiliates of the system, affiliates are more apt to use the system to its full potential, thereby increasing customer traffic and overall system use.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ross Jr. et al (US 6,629,135 B1) discloses a system for use with an affiliate program, enabling host control of customer experience before, during, and after a purchasing transaction. As cited in the IDS, Merriman et al. (US 5,948,061) discloses a method and apparatus for targeted advertising. The following passages are noted as relevant: col. 1, lines 64-67; col. 2, lines 5-15; col. 2, lines 59-67; col. 3; col. 4; and col. 5, lines 4-63.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on (571) 272-7159. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William J. Allen

A
Y.C. Gary
Primary Examiner